

# Disciplinary and Other FINRA Actions

## Firm Expelled, Individuals Sanctioned

**Kirlin Securities, Inc. (CRD® #21210, Syosset, New York), Andrew Joseph Israel (CRD #1980476, Registered Principal, Rockaway Park, New York) and Anthony Joseph Kirincic (CRD #1499511, Registered Principal, Dix Hills, New York).** The firm was expelled from FINRA membership, Israel was barred from association with any FINRA member with the right to reapply after five years and Kirincic was barred from association with any FINRA member in any capacity. The Securities and Exchange Commission (SEC) imposed the sanctions following appeal of a National Adjudicatory Council (NAC) decision. The sanctions were based on findings that Israel and Kirincic, acting on the firm's behalf, used deceptive techniques to manipulate the stock price of the firm's publicly-traded parent company. The findings stated that Kirincic forged public customers' signatures on stock certificates and authorization letters. The findings also stated that the firm, acting through Israel and another individual, failed to comply with best execution requirements for a customer order.

Kirincic has appealed this decision to the United States Court of Appeals for the Second Circuit. The bar is in effect pending consideration of the appeal. (FINRA Case #EAF0400300001)

## Firms Fined, Individuals Sanctioned

**Bentley-Lawrence Securities, Inc. (CRD #13174, Troy, Michigan) and Richard Lawrence Coskey (CRD #54880, Registered Principal, Bloomfield Hills, Michigan)** submitted an Offer of Settlement in which the firm was fined \$50,000 and ordered to pay \$117,623.68 in restitution, jointly and severally with Coskey, to customers. Coskey was fined \$20,000 and suspended from association with any FINRA member in any principal capacity for nine months. Without admitting or denying the allegations, the firm and Coskey consented to the described sanctions and to the entry of findings that the firm and a registered representative settled a claim in connection with the representative's mutual fund switching in a customer's account, and the firm, acting through Coskey, failed to report the settlement to FINRA. The findings stated that the firm, acting through Coskey, failed to adequately and properly supervise the registered representative who engaged in mutual fund switching activities in customers' account, which generated in excess of \$178,000 in gross commissions, representing more than 50 percent of the firm's mutual fund commission revenue for all registered representatives. The findings also stated that the firm, acting through Coskey, failed to adequately supervise to ensure the timely reporting of the settlement with the customer.

## Reported for April 2010

FINRA® has taken disciplinary actions against the following firms and individuals for violations of FINRA rules; federal securities laws, rules and regulations; and the rules of the Municipal Securities Rulemaking Board (MSRB).

The suspension is in effect from February 1, 2010, through October 31, 2010. (FINRA Case #2007011333401)

**Garden State Securities, Inc. (CRD #10083, Wall, New Jersey), Ted David Baturin (CRD #2259696, Registered Principal, Parkland, Florida) and Christopher John Lane Sr. (CRD #301668, Registered Principal, Avon, New Jersey)** submitted a Letter of Acceptance, Waiver and consent in which the firm was censured, fined \$50,000 and ordered to pay \$3,894.90, plus interest, in restitution to customers; Baturin was fined \$20,000 and suspended from association with any FINRA member in any capacity for five months; and Lane was fined \$7,500 and suspended from association with any FINRA member in a general securities principal capacity for 20 business days. Without admitting or denying the findings, the firm, Baturin and Lane consented to the described sanctions and to the entry of findings that the firm, acting through Baturin, bought/sold securities for its account from/to another broker-dealer and failed to buy/sell such securities to/from a firm customer at a price that was fair, taking into consideration all relevant circumstances, including market conditions with respect to the security at the time of the transaction, the expense involved, and that the firm was entitled to a profit. The findings stated that the firm, acting through Baturin, recommended to elderly customers that they purchase corporate bonds that were rated as below investment grade and were speculative securities; and recommended and executed transactions in securities without reasonable grounds for believing that the recommendations were suitable upon the basis of facts the customers disclosed as to their other security holdings and their financial situation and needs. The findings also stated that Lane failed to reasonably and properly supervise Baturin's activities, and the firm failed to enforce its written supervisory procedures that specified that Lane was to conduct supervisory reviews of Baturin's customer account activity to detect and prevent violations of NASD® Rules 2310 and 2440, and NASD Interpretative Material-2440.

Baturin's suspension is in effect from March 1, 2010, through July 31, 2010. Lane's suspension was in effect from March 1, 2010, through March 26, 2010. (FINRA Case #2005000525902)

**Valores Finamex International, Inc. (CRD #26303, Mexico City, Mexico) and Vincent Anthony Buchanan (CRD #34247, Registered Principal, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$27,500, \$10,000 of which was jointly and severally with Buchanan. Buchanan was also suspended from association with any FINRA member in any principal capacity for 20 business days. Without admitting or denying the findings, the firm and Buchanan consented to the described sanctions and to the entry of findings that the firm, acting through Buchanan, failed to produce evidence of Buchanan's review of a registered representative's correspondence. The findings stated that the firm's written supervisory procedures failed to identify the registered representative as a producing manager, failed to contain procedures reasonably designed to provide heightened supervision over the activities of each producing manager who is responsible for generating 20 percent or more of the revenue of the business units supervised by the producing manager's supervisor, and failed to assign a qualified supervisor to supervise the registered representative. The findings also stated that the firm permitted Buchanan to conduct a securities business while he was "Continuing Education Inactive." The

findings also included that the firm failed to send an annual privacy notice to its customers; failed to provide an explanation to its customers of their right to opt out of disclosure of nonpublic personal information to nonaffiliated third parties; and failed to establish policies and procedures that address and review administrative, technical and physical safeguards for the protection of customer records and information involved in the outsourcing of compliance and operations functions to nonaffiliated third parties. FINRA found that the firm effected Trade Reporting and Compliance Engine™ (TRACE™)-eligible securities trades and failed to report, or properly report, those transactions.

The suspension was in effect from March 15, 2010, through April 12, 2010. (FINRA Case #2009016196001)

## Firm and Individual Fined

**Brean Murray, Carret & Co., LLC (CRD #23723, New York, New York) and Jerome Seymour Baron (CRD #13158, Registered Principal, Woodbury, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm and Baron were censured and fined \$15,000 jointly and severally. The firm was also fined an additional \$166,500, ordered to pay \$2,485.09, plus interest, in restitution to investors, and required to revise its written supervisory procedures regarding its supervisory system, procedures and qualifications, best execution, anti-intimidation/coordination, trade reporting, sales transactions, trading halts, soft dollar accounts and trading, registration, Order Audit Trail System (OATS™) reporting, order handling, books and records, information barriers, use of multiple market participant identifiers (MPIDs), and SEC Rule 612. Without admitting or denying the findings, the firm and Baron consented to the described sanctions and to the entry of findings that the firm, acting through Baron, permitted an unregistered associated person to act as the firm's chief compliance officer. The findings stated that, the firm consented to the described sanctions and to the entry of findings that it failed to timely report Reportable Order Events (ROEs) and transmit required information to OATS. The findings also stated that in equity securities transactions, the firm charged its customers more than a fair commission or service charge, taking into consideration all relevant circumstances. The findings also included that the firm accepted short sale orders in an equity security from another person, or effected short sales in an equity security for its own account without borrowing the security or entering into a *bona fide* arrangement to borrow the security or having reasonable grounds to believe that the security could be borrowed so that it could be delivered on the date delivery is due and documenting compliance with SEC Rule 203(b)(1) of Regulation SHO.

FINRA found that the firm executed short sale orders and failed to properly mark the orders as short. FINRA also found that the firm failed to submit to the NASDAQ Market Center (NMC) for the offsetting, "riskless" portion of "riskless" principal transactions in designated securities, either a clearing-only report with a capacity indicator of "riskless principal," or a non-tape, non-clearing report with a capacity indicator of "riskless principal." In addition, FINRA determined that the firm failed to report the correct symbol indicating whether it executed securities transactions in a principal or agent capacity to the NMC. The findings stated that firm failed to transmit execution reports

to OATS and improperly submitted order route reports to OATS. The findings also stated that the firm incorrectly reported the second leg of “riskless” principal transactions to the NMC when the firm should have submitted either a clearing-only report with a capacity indicator of “riskless principal,” or non-tape, non-clearing report with a capacity indicator of “riskless principal.” The findings also included that the firm executed transactions and failed to report each of these transactions to the NMC with the correct symbol indicating whether the transaction was a buy, sell, sell short, sell short exempt or cross. FINRA found that the firm failed to provide written notification to its customers that transactions were executed at an average price or provided written notification with inaccurate disclosures regarding compensation, capacity, market making status, and/or executions at an average price. FINRA also found that the firm failed to show the time orders were received and/or the terms and conditions on brokerage order memoranda. In addition, FINRA determined that the firm executed short sale transactions in NASDAQ National Market (NNM) securities, at or below the current inside bid when the current inside bid was below the preceding inside bid on the security. The findings stated that the firm made available reports on the covered orders in national market system securities that it received for execution from any person that contained incorrect information, failed to include information, reported incomplete information and contained multiple statistical discrepancies. The findings also stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and FINRA rules regarding supervisory system, procedures and qualifications, order handling, best execution, anti-intimidation/coordination, trade reporting, sale transactions, trading halts, soft dollar accounts and trading, OATS, registration books and records, information barriers, use of multiple MPIDs and SEC Rule 612. The findings also included the firm failed to provide documentary evidence that it performed the supervisory reviews concerning its supervisory system, and qualifications, order handling, best execution, anti-intimidation/coordination, trade reporting, sale transactions, use of multiple MPIDs, trading halts, soft dollar accounts and trading, OATS, registration, and books and records, and failed to establish, maintain, and enforce written policies and procedures that were reasonably designed to prevent trade-throughs of protected quotations in NMS stocks that do not fall within any applicable exception, and, if relying on an exception, are reasonably designed to assure compliance with the terms of the exception.

FINRA found that the firm failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm’s bid or offer in each such security; or when the order was priced equal to the firm’s bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm’s bid or offer in each such security. FINRA also found that the firm made publicly available reports on its routing on non-directed orders in covered securities that included incorrect information. In addition, FINRA determined that the firm failed to execute orders fully and promptly, and failed to use reasonable diligence to ascertain the best inter-dealer market and failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. (FINRA Case #2006004466101)

## Firms Fined

**AXA Advisors, Inc. (CRD #6627, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$20,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it inaccurately reported municipal securities transactions to the Municipal Securities Rulemaking Board's (MSRB) Real-Time Transaction Reporting System (RTRS) and corporate bond transactions to TRACE, respectively, by reporting transactions with the firm acting in a principal capacity when it actually acted as agent on the transactions. The findings stated that the firm caused inaccurate and incomplete confirmations to be sent to customers by incorrectly confirming the transactions as principal transactions when they should have been confirmed as agency transactions. **(FINRA Case #2008011647801)**

**Dresdner Kleinwort Securities LLC (CRD #41957, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$60,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it made calculation errors in its weekly customer reserve formula computation; thereby, the firm's calculations for the weekly customer reserve were inaccurate, which resulted in an increase or decrease of the net reserve requirement. The findings stated that the firm's review procedures and internal controls necessary to ensure an accurate customer reserve formula computation were not adequate. The findings also stated that the firm had open fails to deliver in a stock outstanding for more than the required consecutive settlement days. **(FINRA Case #2008013992601)**

**Healthcare Community Securities Corporation (CRD #36026, Rensselaer, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$35,000. The firm was also required to review its supervisory system and procedures concerning preservation of electronic communications for compliance with FINRA rules and the federal securities laws and regulations and to certify the review. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that, from 2004 through 2008, the firm did not maintain and preserve all electronic communications relating to the firm's business and did not establish, maintain and enforce a supervisory system and/or written supervisory procedures that were reasonably designed to achieve compliance with the rules and regulations applicable to the retention of such communications. **(FINRA Case #2008011702001)**

**J.P. Morgan Securities Inc. (CRD #79, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured, fined \$50,000 and ordered to pay \$1,326.74, plus interest, in restitution to investors. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely report ROEs to OATS and transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the related order routed to NASDAQ, or to the corresponding new order the destination member firm transmitted, due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm transmitted Execution or Combined Order/Execution Reports to OATS that contained inaccurate, incomplete or improperly formatted data

so that the OATS system was unable to link the execution reports to the related trade reports. The findings also stated that the firm transmitted Route or Combined Order/Route Reports to the OATS system where the firm was named as the “Sent-To Firm,” which OATS was unable to match to a related New Order Report the firm submitted. FINRA found that the firm transmitted ROEs to OATS that OATS rejected for context or syntax errors; and even though they were repairable, the firm failed to repair most of them— thereby failing to transmit the ROEs to OATS.

The findings also included that the firm failed to fully and promptly execute orders and in some of the transactions for or with a customer in which the firm failed to use reasonable diligence to ascertain the best inter-dealer market, it failed to buy or sell in such market so that the resultant price to its customers was as favorable as possible under prevailing market conditions. FINRA also found that the firm failed to report transactions in TRACE-eligible securities to TRACE within 15 minutes of the execution time. In addition, FINRA determined that the firm failed to accept or decline transactions in reportable securities in the FINRA/NASDAQ Trade Reporting Facility® (FTRF) or OTC™ Reporting Facility (OTCRF) within 20 minutes after execution that it had an obligation to accept or decline as the order entry firm (OEID). Moreover, FINRA found that the firm failed, within 90 seconds after execution, to transmit last sale reports of transactions in OTC equity securities to the OTCRF, and failed to designate some of the last sale reports as late. Furthermore, FINRA found that the firm failed to report the correct execution time for transactions in reportable securities to the OTCRF. **(FINRA Case #2007007971801)**

**Kimelman & Baird, LLC (CRD #2440, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$10,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it purchased or sold municipal securities as an agent for a customer for a commission or service charge that was in excess of a fair and reasonable amount, taking into consideration all relevant factors, including the availability of the securities involved in the transaction, the expense of executing or filling the customer’s order, the value of the services the broker dealer or municipal securities dealer rendered, and the amount of any other compensation the broker, dealer, or municipal securities dealer received or would receive in connection with the transaction. The findings stated that the firm’s supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and MSRB rules concerning commissions charged in agency municipal securities transactions. **(FINRA Case #2008014281001)**

**Lexington Investment Company, Inc. (CRD #27393, Lexington, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$32,500. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to accurately report corporate securities transactions and municipal securities transactions in that they were reported as “bunched” trades when the firm consolidated trade information for multiple customer accounts into one trade report. The findings stated that the firm failed to disclose the time of receipt of order tickets for corporate debt securities transactions and municipal securities transactions. The findings also stated that the firm failed to establish, maintain or implement adequate written supervisory



procedures reasonably designed to achieve compliance with the requirement to create and maintain order tickets that include all required information specified in SEC Rule 17a-3 and MSRB Rule G-8 for each brokerage order received. (**FINRA Case #2009016358501**)

**Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD #7691, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$55,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it transmitted Route or Combined Order/Route Reports to OATS that the OATS system was unable to link to the corresponding new order transmitted by the destination member firm or link to the related order routed to NASDAQ due to inaccurate, incomplete or improperly formatted data. The findings stated that the firm failed to timely report ROEs to OATS. (**FINRA Case #2006005526601**)

**Merrill Lynch, Pierce, Fenner & Smith Incorporated (CRD #7691, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$300,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that the firm, through several of its employees at the branch office level and employees of an affiliate in the Office of General Counsel made material misstatements to NYSE Regulation examiners relating to an on-site branch office examination relating to non-registered cold callers by providing the NYSE with inaccurate and deceptive information in response to various regulatory examination requests, instructing staff that an unapproved facsimile machine be hidden or removed, and by providing an inaccurate written statement in response to requests for information during an ongoing investigation. The findings stated that the firm failed to properly supervise a registered person with the firm who held himself out as an attorney on firm stationery and business cards even though he was not licensed or admitted to practice before any state or federal bar. The findings also stated that the firm failed to provide letters from outside broker dealers, whose employees maintained accounts at the firm, confirming that they were aware of such accounts; receive and review duplicate confirmations and monthly account statements for accounts that employees maintained outside the firm and failed to evidence the approval of such accounts; and failed to send duplicate statement and confirmations to other firms whose employees had accounts at the firm. The findings also included that the firm failed to evidence review and supervision of incoming or outgoing written communications and facsimiles at certain branches; failed to evidence the approval for certain employees to maintain computers and software; and failed to review, supervise and/or evidence supervisory review of communications that employees sent and received with non-firm issued computers.

FINRA found that the firm failed to place certain accounts on 90-day restrictions; evidence the review, approval and/or supervision of order errors and account designation changes; and date or properly date corrections for order errors and account designation changes. FINRA also found that the firm failed to evidence the review, approval and/or supervision of certain personal computer forms that had been backdated at a branch; failed to approve and/or timely approve seminars that firm employees conducted, and maintain certain seminar-related materials; failed to review,

approve and/or retain certain facsimiles, including Fax-2-Mail correspondence and/or evidence its review and approval; and failed to maintain its "control" fax machine in a secure location in one branch. **(FINRA Case #2008012391401)**

**Moors & Cabot, Inc. (CRD #594, Boston, Massachusetts)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$165,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to provide Anti-Money Laundering (AML) training to its employees that were designated as being responsible for administering the firm's AML compliance program. The findings stated that the firm failed to establish policies and procedures that required that these individuals have sufficient knowledge and training to carry out their AML responsibilities. The findings also stated that the firm failed to establish and implement adequate policies and procedures that could reasonably be expected to detect and cause the reporting of suspicious transactions as required by 31 U.S.C. 5318(g), provide evidence that it reviewed its AML exception reports, and establish adequate internal controls to ensure that its AML policies and procedures regarding the detection and reporting of suspicious activity were properly implemented. The findings also included that the firm failed to conduct independent testing of its AML program and permitted individuals to conduct independent testing of its AML program when there was no evidence that they had sufficient knowledge of or training relating to the applicable requirements under the Bank Secrecy Act and its implementing guidelines.

FINRA found that the firm failed to establish and maintain adequate supervisory procedures relating to the documentation of responses to law enforcement requests and ensuring that it fully complied with law enforcement requests for information. FINRA also found that the firm failed to have adequate policies and procedures to document locate information for short sale transactions and executed short sales transactions for which it failed to document locates. In addition, FINRA determined that the firm conducted its business while failing to maintain its net capital at or above its required minimum requirements, failed to accurately compute its net capital in its trial balance and net capital computations, and filed inaccurate Financial and Operational Combined Uniform Single (FOCUS™) reports. Moreover, FINRA found that the firm intentionally and improperly maintained registrations for individuals who were not acceptable for registration with the New York Stock Exchange (NYSE) because independent contractors (ICs) were not employed by or associated with the firm, and failed to reasonably supervise in that the firm did not establish, maintain or enforce its policies and procedures to ensure that it properly supervised short sale transactions, its AML compliance program, net capital computations, books and records, regulatory filings and registration procedures. **(FINRA Case #2007009459701)**

**Morgan Keegan & Company, Inc. (CRD #4161, Memphis, Tennessee)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$75,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to timely file amendments to Uniform Applications for Securities Industry Registration or Transfer (Forms U4) and failed to timely file Uniform Termination Notices for Securities Industry Registration (Forms U5). **(FINRA Case #2008014567501)**



**Ramius Securities LLC (CRD #41076, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$200,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it lacked supervisory systems and written procedures reasonably designed to prevent and detect improper use of, and payment to, finders used in stock loan transactions. The findings stated that the firm failed to download instant messages and emails the firm's employees sent or received via Bloomberg into its internal systems; therefore, the firm did not archive them. **(FINRA Case #2007010580701)**

**Sloan Securities Corporation (CRD #17930, Fort Lee, New Jersey)** submitted an Offer of Settlement in which the firm was censured, fined \$75,000 and required to certify in writing to FINRA that it has conducted a comprehensive review of its AML compliance program including, but not limited to, the detection, investigation and reporting of suspicious activity through a Suspicious Activity Report (SAR); implementation of a Customer Identification Program (CIP); risk-based procedures for foreign correspondent accounts; ensuring that written procedures are tailored to its business lines; annual independent testing of its AML program and procedures; and ensuring that its AML program is reasonably designed to achieve and monitor its compliance with the requirements of the Bank Secrecy Act and implementing regulations thereunder and FINRA Rule 3310. If the firm fails to provide the required certification to FINRA within five business days of issuance of this order, the firm shall be prohibited from selling low-priced securities, including penny stocks, for any customer accounts, on either a solicited or unsolicited basis.

Without admitting or denying the allegations, the firm consented to the described sanctions and to the entry of findings that, in contravention of AML rules and its own procedures, it failed to detect and investigate suspicious circumstances and/or file a SAR notwithstanding multiple red flags in customer accounts. The findings stated that the firm failed to implement its CIP in that it opened new accounts for individual customers but failed to obtain photo identification from them or otherwise verify their identity, and opened new accounts for entities but failed to obtain the necessary documentation establishing and verifying each customer's status as a legal entity. The findings also stated that the firm failed to take corrective measures to enforce its CIP and failed to obtain required customer information including tax identification or social security number and the name(s) of individual(s) authorized to conduct business on the entity's behalf. The findings also included that the firm failed to establish and implement risk-based procedures for foreign correspondent accounts reasonably designed to enable it to detect and report known or suspected money laundering activity through enhanced due diligence, and failed to identify and perform enhanced risk-based due diligence in foreign correspondent accounts that the firm opened.

FINRA found that the firm failed to develop and implement a reasonably designed AML program to address its business lines, foreign correspondent banks, policies and procedures that it would follow to investigate suspicious activity associated with its penny stock business and other red flags, and freezing accounts and prohibiting transactions by persons suspected of terrorist activities and the filing of any Report of Foreign Bank and Financial Accounts (FBAR) that might be required in connection

with its own accounts. FINRA also found that the firm did not complete annual independent testing of its AML program and procedures. **(FINRA Case #2007007217401)**

**William Blair & Company L.L.C. (CRD #1252, Chicago, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which the firm was censured and fined \$38,000. Without admitting or denying the findings, the firm consented to the described sanctions and to the entry of findings that it failed to immediately display customer limit orders in NASDAQ securities in its public quotation, when each such order was at a price that would have improved the firm's bid or offer in each such security; or when the order was priced equal to the firm's bid or offer and the national best bid or offer for each such security, and the size of the order represented more than a *de minimis* change in relation to the size associated with the firm's bid or offer in each such security. The findings stated the firm transmitted reports to OATS that contained inaccurate timestamps or limit prices, or omitted special handling codes. The findings also stated that the firm failed to report the correct symbol indicating whether transactions were a buy, sell or cross for transactions in reportable securities to the NASD/NASDAQ Trade Reporting Facility (NNTRF), and failed to report the correct execution time for one transaction in reportable securities to the NNTRF. The findings also included that the firm failed to provide written notification disclosing to its customers that transactions were executed at an average price, that it was a market maker in each such security, and/or its correct capacity in the transactions.

FINRA found that the firm's supervisory system did not provide for supervision reasonably designed to achieve compliance with applicable securities laws, regulations and/or FINRA rules addressing procedures to help ensure a reasonable effort is made to determine supervisory personnel are qualified by virtue of experience or training to execute assigned responsibilities, order handling reviews to ensure compliance with the market order protection rule (NASD Rule 2111), best execution procedures for regular and rigorous review of execution information from market centers the firm does not route to, sales transactions procedures for proprietary long sales (SEC Rule 200(a) and (g)), and trading halt procedures. FINRA also found that the firm made available information on covered orders in national market system securities that it received for execution on any person that included incorrect information. In addition, FINRA determined that the firm failed to provide written notification disclosing to its customers its correct capacity in transactions, to disclose the correct compensation type, and to disclose to its customer that the transaction was executed at an average price. **(FINRA Case #2006006385701)**

### Individuals Barred or Suspended

**Robert Paul Aamodt, (CRD #3037835, Registered Principal, Layton, Utah)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for five days. Without admitting or denying the findings, Aamodt consented to the described sanctions and to the entry of findings that he reimbursed a customer for losses in a family limited partnership account that resulted from a trading error. The findings stated that Aamodt wrote a personal check made payable to the account to offset the losses that occurred

due to the decline in price of the purchased shares. The findings also stated that Aamodt admitted the trading error and his subsequent actions to his member firm, which reimbursed the customer all remaining losses plus interest lost as a result of the trading error; subsequently, Aamodt repaid the firm.

The suspension was in effect from April 5, 2010, through April 9, 2010. **(FINRA Case #2009016700301)**

**Heriberto Americo Artiga Sr. (CRD #2374368, Registered Representative, Sylmar, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Artiga consented to the described sanction and to the entry of findings that he engaged in private securities transactions by selling approximately \$2.5 million of promissory notes to individuals, for which he received commissions of approximately \$157,000. The findings stated that Artiga invested the sale proceeds into a company that was promising purportedly risk-free, high yield investment programs. He engaged in this activity without providing prior written notice, or any notice, to his member firm. The findings also stated that Artiga's investors ultimately lost more than \$2.2 million of the \$2.5 million that they had invested. **(FINRA Case #2009017673201)**

**Daryl Gene Bank (CRD #2744671, Registered Principal, Virginia Beach, Virginia) and Gregory Dean Bodoh (CRD #824030, Registered Representative, Delaplane, Virginia)** submitted an Offer of Settlement in which they were barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Bank and Bodoh consented to the described sanction and to the entry of findings that they misappropriated approximately \$161,000 in commissions and other payments from Bank's member firm for their own use. The findings stated that Bank directed his member firm to wire money from a subsidiary to an account Bodoh controlled. Bodoh, in turn, transmitted the majority of the funds to an entity Bank controlled and kept a portion for himself. The findings also stated that Bank entered false information concerning securities transactions on his firm's business records, willfully causing his firm to maintain inaccurate books and records. The findings also included that Bank and Bodoh provided false information in response to FINRA requests for information, and provided false and misleading testimony under oath in a FINRA on-the-record interview. FINRA found that Bodoh participated in private securities transactions without notifying his member firm or obtaining its approval. **(FINRA Case #2008012955301)**

**Daniel John Berka (CRD #2893796, Registered Representative, Fond Du Lac, Wisconsin)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 10 days. The fine must be paid either immediately upon Berka's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Berka consented to the described sanctions and to the entry of findings that he converted a customer's term life insurance policy to a whole life insurance policy without the customer's knowledge, authorization or consent.

The suspension was in effect from March 15, 2010, through March 24, 2010. **(FINRA Case #2008015211701)**

**Sherman Marc Bloom (CRD #2875366, Registered Representative, Curwensville, Pennsylvania)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Bloom's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Bloom consented to the described sanctions and to the entry of findings that he failed to obtain the necessary signatures on forms relating to a variable annuity that customers had authorized. The findings stated that, instead, Bloom took a copy of each of the customer's signatures from an earlier signed document and then cut-and-pasted them onto the necessary form. The findings also stated that Bloom inserted the purported signature date on each forms.

The suspension is in effect from March 1, 2010, through February 29, 2012. **(FINRA Case #2009018368401)**

**Rodney Jack Bradley (CRD #849283, Registered Representative, Palm Harbor, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Bradley consented to the described sanction and to the entry of findings that he borrowed approximately \$480,000 from customers generally involving real estate investment, without his member firm's knowledge. The findings stated that Bradley promised customers returns of 20 to 25 percent and repayment within a month or two. He told the customers that he was using the funds for various purposes, but ultimately did not use the funds for the stated purposes, and used funds borrowed from customers to repay other customers. The findings also stated that Bradley repaid only some customers a total of more than \$155,000. **(FINRA Case #2009017114101)**

**Horus River Brown (CRD #3269819, Registered Representative, La Jolla, California)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that he engaged in a private securities transaction outside the scope of his employment with his member firm. The findings state that Brown recommended that a customer invest about \$200,000 in a security in the form of a note or convertible debenture. The findings also stated that Brown promised that the customer would receive a 10 percent return on her investment within ten months, but instead, the company defaulted and the customer lost her entire investment. The findings further stated that Brown did not provide the firm with prior written notice of his participation in this transaction, did not obtain approval from the firm to participate in this transaction, did not give the firm the opportunity to record this transaction on its books and records or to supervise his participation in the transaction. The findings also included that Brown failed to respond to FINRA requests for information and documents, and failed to appear for FINRA on-the-record testimony. **(FINRA Case #2008013380501)**

**Leonard Charles Brown (CRD #3079259, Registered Supervisor, Phoenix, Arizona)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Brown consented to the described sanction and to the entry of findings that he misused customer funds totaling \$20,000, which he received from the customer to be invested in a real estate project, but instead deposited the funds in a bank checking account in the name of a business he owned and used the funds to pay personal expenses without the customer's authorization. The findings stated that Brown electronically submitted an Outside Business Activities questionnaire to his member firm on which he informed the firm of his ownership of the business, but stated that the business was "cattle ranching" and that his duties did not involve raising capital or issuing debt. The findings also stated that Brown failed to return the funds to the customer. **(FINRA Case #2007009081801)**

**Til-Shona Marie Brown (CRD #2629345, Associated Person, Bayonne, New Jersey)** submitted an Offer of Settlement in which she was fined \$5,000 and suspended from association with any FINRA member in any capacity for five months. Without admitting or denying the allegations, Brown consented to the described sanctions and to the entry of findings that she willfully failed to disclose material information on her member firm's certification and compliance notification forms and was fully aware of these material facts when she submitted the forms.

The suspension is in effect from March 1, 2010, through July 31, 2010. **(FINRA Case #2008014067901)**

**Victor Craig Campbell (CRD #1165828, Registered Principal, Hagerstown, Maryland)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Campbell consented to the described sanction and to the entry of findings that he created fictitious life insurance policies and forged clients' signatures on the applications for the policies. The findings stated that Campbell created the false policies to help qualify for an annual insurance sales conference and subsequently canceled the policies. **(FINRA Case #2009019015201)**

**Marco Alessandro Caporale (CRD #4375628, Registered Representative, Lithia, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Caporale consented to the described sanction and to the entry of findings that he failed to appear for and provide investigative testimony with FINRA, and he also failed to provide FINRA with requested documents. **(FINRA Case #2008012701701)**

**William Robert Colston (CRD #2944696, Registered Principal, Chesaning, Michigan)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. Without admitting or denying the findings, Colston consented to the described sanctions and to the entry of findings that he engaged in outside business activities in that he acted on behalf of insurance companies not affiliated with his member firm and engaged in sales of equity-indexed annuities (EIAs) to customers for compensation of approximately \$111,000, and failed to provide prompt written notice to his member

firm. The findings stated that Colston engaged in these transactions after his firm specifically instructed him that he was prohibited from selling EIAs, verified that he understood that his firm did not allow the sale of EIAs and agreed he would not sell them going forward.

The suspension is in effect from April 5, 2010, through July 4, 2010. **(FINRA Case #2008012057401)**

**Stephen George Condos (CRD #2064521, Registered Representative, New York, New York) and Chuck A. Roberts (CRD #2064602, Registered Representative, New York, New York)** submitted a Letter of Acceptance, Waiver and Consent in which Condos was censured, fined \$15,000 and suspended from association with any FINRA member in any capacity for three weeks. Roberts was censured, fined \$40,000 and suspended from association with any FINRA member in any capacity for four weeks. Without admitting or denying the findings, Condos and Roberts consented to the described sanctions and to the entry of findings that they had knowledge that a sales assistant and possibly others replaced customer email addresses with the sales assistant's firm email address to facilitate the opening of online accounts and to lessen the amount of communications the customers received; therefore, trade confirmations were sent to the sales assistant rather than the customers, although the customers continued to receive their monthly account statements, prospectuses and 1099 federal tax forms by mail. The findings stated that Roberts' relative opened several accounts at his member firm; Roberts serviced those accounts but failed to disclose to the firm that the individual who owned the accounts was a relative. The findings also stated that had Roberts made such disclosure, the account numbers assigned to the accounts would contain a prefix identifying them as being employee-related.

Condos' suspension was in effect from March 15, 2010, through April 4, 2010. Roberts' suspension was in effect from March 15, 2010, through April 11, 2010. **(FINRA Case #2007010398801)**

**James Francis Cottrell (CRD #1474055, Registered Representative, Stockton, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Cottrell's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Cottrell consented to the described sanctions and to the entry of findings that he willfully failed to disclose a material fact on his Form U4.

The suspension is in effect from February 16, 2010, through May 15, 2010. **(FINRA Case #2009019257401)**

**Steven Howard Delott (CRD #729489, Registered Representative, Long Grove, Illinois)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$35,000 and suspended from association with any FINRA member in any capacity for six months. The fine must be paid either immediately upon Delott's reassociation with a



FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Delott consented to the described sanctions and to the entry of findings that he engaged in improper seminar, training and sales activities in retirement planning workshops, fact finders meetings, annuity training and a breakout session at an insurance industry expo. The findings stated that Delott failed to disclose that he received commissions for the sale of EIAs and falsely created the appearance that people were signing up for a fact finders meeting by asking existing customers to come to the front room at the conclusion of a workshop. The findings also stated that Delott recommended and instructed attendees at annuity training sessions and an expo breakout session to make false, misleading, unwarranted or exaggerated statements in the sale of EIAs and other financial products; to omit material facts; to present information concerning EIAs that is not fair and balanced; and to use improper and high-pressure sales strategies. The findings also stated that Delott made exaggerated, unwarranted and misleading statements, and statements that were not fair and balanced and did not provide a sound basis for the evaluation of facts during his workshops, fact finders meetings and annuity training classes. The findings included that, in connection with his marketing of EIAs, securities and insurance and annuity training, Delott used materials that his member firm had not approved. FINRA found that Delott did not disclose his member firm's name on invitations, or failed to disclose it in a prominent manner, and engaged in outside business activities without disclosing the activities to his firm or seeking its approval.

The suspension is in effect from March 15, 2010, through September 14, 2010. **(FINRA Case #2007011393901)**

**Aleksandr Yurievich Denisov (CRD #4586928, Registered Principal, Marina Del Rey, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 business days. Without admitting or denying the findings, Denisov consented to the described sanctions and to the entry of findings that he failed to timely amend his Form U4 to disclose material facts.

The suspension is in effect from March 15, 2010, through April 26, 2010. **(FINRA Case #2008014686502)**

**Geoffrey Leigh Dent (CRD #65603, Registered Representative, Dallas, Pennsylvania)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for one month. Without admitting or denying the allegations, Dent consented to the described sanctions and to the entry of findings that he exercised discretion in customer accounts pursuant to verbal, not written, consent of discretionary authority and without his member firm having accepted the accounts as discretionary. The findings stated that Dent twice attested to his firm on a certificate of compliance questionnaire that he had not exercised improper trading discretion in his customer accounts.

The suspension was in effect from March 15, 2010, through April 14, 2010. **(FINRA Case #2007010516501)**

**Lily Korine Engelhardt (CRD #724556, Registered Principal, Dix Hills, New York)** submitted a Letter of Acceptance, Waiver and Consent in which she was fined \$10,000 and suspended from association with any FINRA member in any capacity for 20 business days. The fine must be paid either immediately upon Engelhardt's reassociation with a FINRA member firm following her suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Engelhardt consented to the described sanctions and to the entry of findings that she engaged in outside business activities by referring a customer to a relative who was a registered representative at another firm and who received compensation from the referral. The findings stated that Engelhardt failed to provide written notice of the outside business activities to her member firm.

The suspension was in effect from March 15, 2010, through April 9, 2010. **(FINRA Case #2007011151503)**

**John Douglas Faulkner (CRD #2956652, Registered Principal, Fort Lauderdale, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Faulkner consented to the described sanction and to the entry of findings that he failed to fully respond to FINRA requests for information and documents. **(FINRA Case #2009020917101)**

**Keevin Lorenzo Gillespie (CRD #2027789, Registered Principal, Santa Ana, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for nine months. In light of Gillespie's financial status, no monetary sanctions have been imposed. Without admitting or denying the findings, Gillespie consented to the described sanction and to the entry of findings that he exercised control over elderly individuals' accounts and effected excessive and unsuitable securities transactions in the accounts. The findings stated that Gillespie's trading activity in these accounts resulted in a total net loss of approximately \$135,414 and generated gross commissions totaling approximately \$182,820.26. The findings also stated that Gillespie recommended and effected the transactions in the accounts without having reasonable grounds for believing that such transactions were suitable in view of the volume of transactions, the size of the transactions, the transaction costs and commissions incurred, the nature of the securities, the nature of the account, and the customers' financial situation, investment objectives and needs.

The suspension is in effect from March 15, 2010, through December 14, 2010. **(FINRA Case #2007009787301)**

**Michael Anthony Gist (CRD #1171837, Registered Representative, Highlands Ranch, Colorado)** submitted an Offer of Settlement in which he was fined \$15,000, ordered to pay \$231,877.43, plus interest, in restitution to a customer and suspended from association with any FINRA member in any capacity for two years. The fine and restitution must be paid either immediately upon Gist's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without

admitting or denying the allegations, Gist consented to the described sanctions and to the entry of findings that he recommended the purchase of variable universal life insurance policies (VULs) to customers and, in connection with the recommendations and resulting transactions, made untrue statements of material fact and omitted material facts necessary to make the statements that he made, in light of the circumstances in which they were made, not misleading. The findings stated that Gist made unsuitable recommendations and sales of VULs to customers and did not have a reasonable basis for believing that his recommendations were suitable in light of the customers' financial situations and needs.

The suspension is in effect from March 1, 2010, through February 29, 2012. **(FINRA Case #2007007697001)**

**Kevin Mark Glodek (CRD #2419411, Registered Representative, New York, New York)** was fined \$25,000 and suspended from association with any FINRA member in any capacity for six months. The SEC imposed the sanctions following appeal of a NAC decision. The sanctions were based on findings that Glodek made material misrepresentations to customers in connection with stock sales. The findings stated that the misrepresentations included price predictions of a stock, earning projections for the issuer, and that the issuer was a debt-free company and would imminently qualify for listing on the American Stock Exchange (AMEX).

This decision has been appealed to the United States Court of Appeals for the Second Circuit and the sanctions have been stayed pending review of the appeal. **(FINRA Case #E9B2002010501)**

**Ruthe Pessin Gomez (CRD #224857, Registered Principal, Fremont, California)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any principal capacity. Without admitting or denying the findings, Gomez consented to the described sanction and to the entry of findings that a member firm, acting through Gomez, entered into an agreement with another member firm and non-members pursuant to which one of the non-members purported to purchase the client accounts of Gomez' firm. The findings stated that Gomez became a registered representative of the other member firm and entered into the agreement without submitting the required application and without obtaining FINRA's approval. The findings also stated that, pursuant to the agreement, the dealer of record for certain customer accounts of Gomez' firm was to be changed, and she allowed the changes to occur without the customers' knowledge and consent. **(FINRA Case #2007009609201)**

**Brenan Joe Hall (CRD #4262046, Registered Representative, Louisville, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which he was suspended from association with any FINRA member in any capacity for five business days. In light of Hall's financial status, no monetary sanctions were imposed. Without admitting or denying the findings, Hall consented to the described sanction and to the entry of findings that he exercised discretion in customers' accounts without their prior authorization and the firm's prior acceptance of the accounts as discretionary (in writing or otherwise).

The suspension was in effect from March 1, 2010, through March 5, 2010. (FINRA Case #2007011908101)

**Patrick John Heatley (CRD #5465129, Registered Representative, Lombard, Illinois)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine shall be payable when Heatley seeks to reenter the securities industry. The Office of Hearing Officers (OHO) imposed the sanctions following a remand of the Default Decision. The sanctions were based on findings that Heatley failed to disclose material information on his Form U4.

The suspension is in effect from March 1, 2010, through May 31, 2010. (FINRA Case #2008012122001)

**Michael Joseph Helton (CRD #2178429, Registered Representative, Parkville, Missouri)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Helton consented to the described sanction and to the entry of findings that he failed to respond to FINRA requests for information. (FINRA Case #2009016781801)

**Scott Daniel Hendrickson (CRD #5451035, Associated Person, Yorba Linda, California)** submitted an Offer of Settlement in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Hendrickson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Hendrickson consented to the described sanctions and to the entry of findings that he failed to disclose material facts on his Form U4, and failed to respond to FINRA requests for information.

The suspension is in effect from March 1, 2010, through February 29, 2012. (FINRA Case #2008013990601)

**Michael Scott Heslep (CRD #4766513, Registered Representative, Dallas, Texas)** submitted a Letter of Acceptance, Waiver and Consent in which he was censured and suspended from association with any FINRA member in any capacity for 10 business days. In light of Heslep's financial status, no monetary sanction was imposed. Without admitting or denying the findings, Heslep consented to the described sanctions and to the entry of findings that he engaged in an email marketing campaign through which he distributed correspondence and/or sales literature to prospective customers via unsolicited emails. The findings stated that many of the emails failed to provide a sound basis for evaluating the facts, provided exaggerated or unwarranted claims that are prohibited and/or contained performance claims that imply that past performance will recur.

The suspension was in effect from March 1, 2010, through March 12, 2010. (FINRA Case #2008011629602)

**Roger Odell Hudspeth II (CRD #4358500, Registered Representative, Chesapeake, Virginia)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 30 days. Without admitting or denying the allegations, Hudspeth consented to the described sanctions and to the entry of findings that he sold Real Estate Investment Trusts (REITs) to customers without being registered as a Series 7 General Securities Representative. The findings stated that another representative served as the registered representative of record and executed the REIT application, notwithstanding the fact that Hudspeth, and not the representative, recommended and sold the REITs to the customers.

The suspension was in effect from March 15, 2010, through April 13, 2010. **(FINRA Case #2008012955302)**

**David Mark Jackson (CRD #1867987, Registered Representative, San Clemente, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for 90 days. The fine must be paid either immediately upon Jackson's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Jackson consented to the described sanctions and to the entry of findings that he submitted documents to his member firm after he signed the customer's name, and corrected the fee structure and portfolio director on a form without informing the customer or his firm and without the customer's permission or authority.

The suspension is in effect from March 1, 2010, through May 29, 2010. **(FINRA Case #2008014985101)**

**Denis William Kraemer Jr. (CRD #2795687, Registered Representative, West Babylon, New York)** was fined \$5,000 and suspended from association with any FINRA member in any capacity for nine months. The NAC imposed the sanctions following appeal of an Office of Hearing Officers (OHO) decision. The sanctions were based on findings that Kraemer willfully failed to disclose material information on his Forms U4.

The suspension is in effect from March 1, 2010, through November 30, 2010. **(FINRA Case #2006006192901)**

**Jerette Leslie Lerner (CRD #2336016, Registered Representative, Florham Park, New Jersey)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Lerner entered transactions for an unregistered individual. The findings stated that Lerner failed to appear for FINRA on-the-record interviews. **(FINRA Case #2007010748901)**

**Michael Madden (CRD #5620918, Associated Person, Oceanport, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Madden consented to the described sanction and to the entry of findings that he willfully failed to disclose a material fact on a Form U4 and failed to respond to FINRA requests for information. **(FINRA Case #2009016864001)**

**Garth Andrew Mather (CRD #2986605, Registered Representative, Heathrow, Florida)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Mather failed to appear for FINRA on-the-record interviews. **(FINRA Case #2009016709701)**

This decision has been appealed to the NAC and the sanction is not in effect pending review of the appeal.

**Richard Alan Mechikoff Jr. (CRD #2279867, Registered Representative, Fresno, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Mechikoff's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Mechikoff consented to the described sanctions and to the entry of findings that he made unsuitable recommendations for customers that resulted in excessive concentration in a speculative and volatile stock in their accounts. The findings stated that Mechikoff also effected unauthorized trades in the customers' accounts.

The suspension is in effect from March 15, 2010, through March 14, 2012. **(FINRA Case #2007009423301)**

**Gregory Gerard Meyer (CRD #3015419, Registered Representative, Wayzata, Minnesota)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Meyer consented to the described sanction and to the entry of findings that he withdrew approximately \$553,000 from a customer's bank account by presenting withdrawal slips to bank tellers on which he wrote "at the customer's request" and deposited the funds into his personal brokerage account for his own use. In addition, Meyer misappropriated approximately \$85,000 from another bank customer by depositing the proceeds of the sale of the customer's annuity into his personal accounts for his own use. The findings stated that Meyer exercised discretionary authority over a customer's securities account without her written authorization, did not speak with the customer in connection with every transaction, and did not obtain approval from his member firm to engage in discretionary trading. The findings also stated that Meyer engaged in private securities transactions, for compensation, without prior written notice to, or prior written approval from, his member firm. The findings also included that Meyer failed to respond to FINRA requests for information and to appear for a FINRA on-the-record interview. **(FINRA Case #2008016397801)**

**Gary Ben Miner (CRD #727467, Registered Representative, Boise, Idaho)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for four months. The fine must be paid either immediately upon Miner's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Miner consented to the described sanctions and to the entry of findings



that he willfully misrepresented material facts on a Form U4 that he submitted, or caused to be submitted, through his member firm.

The suspension is in effect from March 1, 2010, through June 30, 2010. **(FINRA Case #2008014957101)**

**Roger Jack Mouallem (CRD #1815781, Registered Principal, Boca Raton, Florida)** submitted an Offer of Settlement in which he was fined \$25,000 and suspended from association with any FINRA member in any capacity for two years. The fine must be paid either immediately upon Mouallem's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Mouallem consented to the described sanctions and to the entry of findings that he acted in concert with one of his customers to engage in a series of manipulative trades in a company's common stock and artificially affected the market price for the company's stock.

The suspension is in effect from February 16, 2010, through February 15, 2012. **(FINRA Case #2007009934703)**

**Ryan Matthew Nestor (CRD #4376585, Registered Representative, Marblehead, Massachusetts)** submitted an Offer of Settlement in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the allegations, Nestor consented to the described sanction and to the entry of findings that he converted \$760,000 from elderly customers by forging the customer's or trustee's signatures on wire transfer forms without their consent or authorization, and causing the unauthorized withdrawal of funds from the customers' accounts to a third-party account. The findings stated that Nestor failed to respond to FINRA requests for information. **(FINRA Case #2008012540201)**

**William Frederick Nord (CRD #2754868, Registered Representative, Costa Mesa, California)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Nord's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Nord consented to the described sanctions and to the entry of findings that he settled a customer's complaint by paying the customer and agreeing to lower commission rates on the customer's future stock purchases without his member firm's knowledge or approval.

The suspension was in effect from March 15, 2010, through March 26, 2010. **(FINRA Case #2008012826101)**

**Duane Edward O'Neal (CRD #2357535, Registered Representative, Indianapolis, Indiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, O'Neal consented to the described sanction and to the entry of the findings that he failed to comply with repeated requests from FINRA to appear and provide testimony in a FINRA investigation. **(FINRA Case #2008012579101)**

**Christopher Michael Paulsen (CRD #2477962, Registered Representative, West Islip, New York)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$2,500 and suspended from association with any FINRA member in any capacity for 10 business days. Without admitting or denying the findings, Paulsen consented to the described sanctions and to the entry of findings that he effected multiple transactions in a firm customer's securities account without the customer's prior written authorization and contrary to his member firm's policy that prohibited registered representatives from maintaining discretionary customer accounts.

The suspension was in effect from March 15, 2010, through March 26, 2010. (FINRA Case #2008012092701)

**William Paul Pecoriello (CRD #1395742, Registered Representative, Westport, Connecticut)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$50,000 and suspended from association with any FINRA member in any capacity for 30 business days. The fine must be paid either immediately upon Pecoriello's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Pecoriello consented to the described sanctions and to the entry of findings that he selectively disseminated material non-public information regarding a company, which caused a spike in trading volume and price of the company's shares. The findings stated that Pecoriello's member firm's policies and procedures prohibited the selective dissemination of material non-public information.

The suspension is in effect from March 15, 2010, through April 26, 2010. (FINRA Case #2007011193302)

**David Warren Polifroni Sr. (CRD #2317967, Registered Representative, Haworth, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 10 business days. The fine must be paid either immediately upon Polifroni's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Polifroni consented to the described sanctions and to the entry of findings that he loaned \$805 to a customer by making a series of deposits directly into the customer's bank account without his member firm's approval.

The suspension was in effect from March 15, 2010, through March 26, 2010. (FINRA Case #2006007102501)

**Laura Anne Potts (CRD #5102900, Registered Representative, Owensboro, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which she was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Potts consented to the described sanction and to the entry of findings that she used her access as a private banking associate to embezzle approximately \$1,452,158 from customers' checking and certificate of deposit (CD) accounts. The findings stated that Potts fraudulently completed debit tickets, ranging from \$800 to \$68,000, to withdraw funds from customers' checking and CD accounts, falsely indicating that the

customers requested the withdrawal; The customers neither authorized nor had knowledge of the withdrawals. The findings also stated that Potts presented the debit tickets to bank tellers at her local bank branch and received cash back, which she used for her own personal use. (FINRA Case #2009018291401)

**Kenneth Ray Prevett Jr. (CRD #2756256, Registered Representative, Somerset, Kentucky)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Prevett's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Prevett consented to the described sanctions and to the entry of findings that he engaged in an outside business activity by selling EIAs to his member firm's customers without giving prompt written notice of the sales to his firm. The findings stated that Prevett received approximately \$77,700 in compensation for selling the EIAs.

The suspension is in effect from February 16, 2010, through May 15, 2010. (FINRA Case #2008014399401)

**George Ernest Reilly (CRD #1523041, Registered Principal, Fox Lake, Illinois)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Reilly failed to respond to FINRA requests for information and to appear for an on-the-record interview. (FINRA Case #2007011937902)

**Charles Edwin Renner Jr. (CRD #2437597, Registered Representative, Akron, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Renner consented to the described sanction and to the entry of findings that, while conducting an outside insurance brokerage business, he converted \$5,000 in customer funds he received as payment for a fixed life insurance policy. The findings stated that Renner deposited the funds into his own account and used them for his own benefit. The findings also stated that after Renner admitted that he had not purchased the insurance policy, Renner's member firm reimbursed the customer even though the individual was not a customer of the firm. (FINRA Case #2009018591701)

**Ronald Urban Schulze (CRD #2458738, Registered Principal, Fort Loramie, Ohio)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for three months. The fine must be paid either immediately upon Schulze's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Schulze consented to the described sanctions and to the entry of findings that he engaged in outside business activities, failed to inform his member firm of his intention to offer fixed annuities to customers and failed to provide written notice of the transactions to his firm after they were completed. The findings stated that Schulze's firm required all registered representatives to submit an outside business activity disclosure form and receive supervisor's written approval prior to engaging in any outside business activity.

The suspension is in effect from March 15, 2010, through June 14, 2010. **(FINRA Case #2008015277401)**

**Douglas Richard Smith (CRD #1845966, Registered Principal, Newbury Park, California)** submitted an Offer of Settlement in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 18 months. The fine must be paid either immediately upon Smith's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the allegations, Smith consented to the described sanctions and to the entry of findings that he effected, without the customer's knowledge, authorization and consent, the surrender and liquidation of a variable annuity in the customer's account, and used the proceeds to purchase a variable annuity issued by another insurance company for the customer's account. The findings stated that to effect the unauthorized transactions for the customer, Smith, without the customer's knowledge, authorization and consent, affixed, or caused to be affixed, the customer's signature and/or initials on five documents. The findings also stated that Smith stamped a document with the firm's medallion signature guarantee stamp and placed his signature on the stamp signature line, which had the effect of guaranteeing the customer's signature as genuine.

The suspension is in effect from March 1, 2010, through August 31, 2011. **(FINRA Case #2008012211601)**

**Maxwell Baldwin Smith (CRD #600012, Registered Principal, Fair Haven, New Jersey)** submitted a Letter of Acceptance, Waiver and Consent in which he was barred from association with any FINRA member in any capacity. Without admitting or denying the findings, Smith consented to the described sanction and to the entry of findings that he received more than \$10.7 million from customers to invest in a private placement in a company that invested in income projects that had been sold to finance or refinance health care facilities. The findings stated that the customers made their investment purchase checks payable to, or otherwise transferred their funds to, a brokerage account Smith controlled at another member firm. The findings also stated that Smith failed to invest the funds on the customers' behalf and misappropriated approximately \$8 million of the funds for his own use and benefit. **(FINRA Case #2009017566501)**

**Richard Albert Snyder Jr. (CRD #2997793, Registered Representative, Palm Harbor, Florida)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$10,000 and suspended from association with any FINRA member in any capacity for one year. The fine must be paid either immediately upon Snyder's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, Snyder consented to the described sanctions and to the entry of findings that he engaged in an undisclosed outside business activity as a limited liability company's registered agent and manager. The findings stated that Snyder engaged in private securities transactions without prior written notice to, or written approval from his member firm by facilitating investments in working interests in oil and gas wells.

The suspension is in effect from March 1, 2010, through February 28, 2011. **(FINRA Case #2008012517601)**

**Joseph Peter Stephens (CRD #3041442, Registered Representative, New Orleans, Louisiana)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. Without admitting or denying the findings, Stephens consented to the described sanctions and to the entry of findings that he accepted a \$210,000 loan from a customer without his member firm's knowledge and consent, and in contravention of his firm's written supervisory procedures that generally prohibited associated persons from borrowing money from, or loaning money to, any firm customer.

The suspension is in effect from March 15, 2010, through May 13, 2010. **(FINRA Case #2007011815501)**

**Freddy Vazquez (CRD #5497539, Associated Person, New York, New York)** was fined \$10,000 and suspended from association with any FINRA member in any capacity for six months. The fine is due and payable if and when Vazquez re-enters the securities industry. The sanctions were based on findings that Vazquez willfully failed to disclose material information on his Form U4.

The suspension is in effect from February 16, 2010, through August 13, 2010. **(FINRA Case #2008012721801)**

**Warren William Wall (CRD #1075703, Registered Principal, Fairview, North Carolina)** was fined \$15,000, suspended from association with any FINRA member in any capacity for three months, suspended from association with any FINRA member in any principal capacity for nine months and ordered to requalify by examination before he re-enters the securities industry in any principal capacity. The fine is payable upon Will's re-entry into the industry, and the suspensions shall run concurrently. The sanctions were based on findings that Wall willfully filed a false, inaccurate and misleading Form U5 regarding a registered representative's termination.

The suspension in any capacity is in effect from March 1, 2010, through May 31, 2010, and the suspension in any principal capacity is in effect from March 1, 2010, through November 30, 2010. **(FINRA Case #2007009472201)**

**Benjamin Yost White (CRD #865408, Registered Representative, Potomac, Maryland)** submitted a Letter of Acceptance, Waiver and Consent in which he was fined \$5,000 and suspended from association with any FINRA member in any capacity for 60 days. The fine must be paid either immediately upon White's reassociation with a FINRA member firm following his suspension, or prior to the filing of any application or request for relief from any statutory disqualification, whichever is earlier. Without admitting or denying the findings, White consented to the described sanctions and to the entry of findings that he borrowed \$100,000 from a customer on an unsecured basis, when his member firm's policies prohibited representatives from borrowing money from a customer. Moreover, the borrowing arrangement did not meet the conditions set forth in NASD Rule 2370(a)(2). The findings stated that White did not disclose to his firm that he had borrowed money from a customer.

The suspension is in effect from March 1, 2010, through April 29, 2010. **(FINRA Case #2008016114801)**

**Jennifer Birrell Young (CRD #2527700, Registered Representative, Parker, Colorado)** was barred from association with any FINRA member in any capacity. The sanction was based on findings that Young made approximately \$94,000 in unauthorized personal charges on credit cards that her employer firm issued to her and another registered individual for business use. The findings stated that Young failed to appear for a FINRA on-the-record interview. **(FINRA Case #2008012237901)**

## Complaint Filed

FINRA issued the following complaint. Issuance of a disciplinary complaint represents FINRA's initiation of a formal proceeding in which findings as to the allegations in the complaint have not been made and does not represent a decision as to any of the allegations contained in the complaint. Because these complaints are adjudicated, you may wish to contact the respondents before drawing any conclusions regarding these allegations in the complaint.

**Denver Arlene Kalkofen (CRD #1530241, Registered Representative, New Holstein, Wisconsin)** was named as a respondent in a FINRA complaint alleging that she converted approximately \$2.4 million from customers by inducing them to invest in a fictitious company. The complaint alleges that Kalkofen instructed the customers to make the checks payable to cash or in the fictitious company's name, and deposited the checks into her personal checking account, after which she used the funds to gamble and pay for personal expenses. The complaint also alleges that Kalkofen failed to cooperate and respond to FINRA requests for information. **(FINRA Case #2008015168701)**



**Individual Suspended for Failure to Pay Arbitration Fees Pursuant to FINRA Rule 9553**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**David Warren Polifroni Sr.**  
Haworth, New Jersey  
(February 19, 2010 – February 25, 2010)

**Individuals Revoked for Failing to Pay Fines and/or Costs Pursuant to FINRA Rule 8320**

(If the revocation has been rescinded, the date follows the revocation date.)

**Vincent Allen Esposito**  
Palm City, Florida  
(February 2, 2010)

**Steven Alan Suib**  
Chester Springs, Pennsylvania  
(February 2, 2010 – February 5, 2010)

**Scott Ryan Tischler**  
Richmond, Virginia  
(February 17, 2010)

**Individuals Barred Pursuant to FINRA Rule 9552(h)**

(If the bar has been vacated, the date follows the bar date.)

**Christopher Wayne Chenevert**  
Glendale, Arizona  
(February 22, 2010)

**Robert Stephen Glynn**  
Central Islip, New York  
(January 19, 2010 – February 23, 2010)

**Gregory Stephen Profeta**  
Monterey, California  
(February 8, 2010)

**Robert William Wade**  
Albuquerque, New Mexico  
(February 8, 2010)

**John Wingo Wright**  
Capistrano Beach, California  
(February 1, 2010)

**Individuals Suspended Pursuant to  
FINRA Rule 9552(d)**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**Thomas Joseph Gorter**  
Brandenburg, Kentucky  
(February 18, 2010)

**David Gamal K. Hanna**  
Allentown, Pennsylvania  
(December 28, 2009 – February 19, 2010)

**Nikki Jane Hill**  
Cincinnati, Ohio  
(February 1, 2010)

**Joshua David Johnson**  
Westminster, California  
(February 26, 2010)

**David Paul LeFort**  
Wareham, Massachusetts  
(February 19, 2010)

**Richard Bryan Main**  
McKinney, Texas  
(February 16, 2010 – April 9, 2010)

**Robert Benjamin Wheeler**  
Perrysburg, Ohio  
(February 8, 2010)

**Terry T. Wong**  
Portsmouth, New Hampshire  
(February 8, 2010)

**Individuals Suspended for Failure to  
Comply with an Arbitration Award or  
Settlement Agreement Pursuant to  
FINRA Rule 9554**

(The date the suspension began is listed after the entry. If the suspension has been lifted, the date follows the suspension date.)

**John Paul Coen**  
Greenwich, Connecticut  
(February 12, 2010)

**Thomas H. Dering**  
Lavallette, New Jersey  
(July 9, 2009-February 4, 2010)

**Michelle Murphy Feeley**  
New York, New York  
(February 12, 2010)

**Guillermo Mauricio Forero**  
Davie, Florida  
(February 12, 2010)

**Daniel James Healy**  
Greenville, Michigan  
(December 1, 2009 – February 11, 2010)

**David John Jeromin**  
San Francisco, California  
(February 18, 2010)

**Eric Allen Rice**  
San Diego, California  
(February 24, 2010)

**Randal Wayne Spears**  
San Antonio, Texas  
(February 12, 2010)

## **FINRA Fines Firms \$750,000 for Inadequate Anti-Money Laundering Programs, Other Violations**

### **Penson Financial Services Fined \$450,000 for Inadequate Review of Hundreds of Thousands of Trades a Day; Pinnacle Capital Markets Fined \$300,000 for Failing to Verify Foreign Customer Identities and to Detect and Report Suspicious Activity**

The Financial Industry Regulatory Authority (FINRA) has fined Penson Financial Services, a Dallas-based securities clearing firm, \$450,000 for failing to establish and implement an adequate anti-money laundering (AML) program to detect and trigger reporting of suspicious transactions, as required by the Bank Secrecy Act and FINRA rules and other violations.

In a similar matter, FINRA has censured and fined Pinnacle Capital Markets of Raleigh, NC, \$300,000 for failing to implement AML procedures reasonably designed to detect and cause the reporting of suspicious activity as well as to verify the identity of customers.

“Firms must tailor their AML programs to fit their business models and must consider the technological environment in which they operate and the nature of their client base,” said Susan L. Merrill, FINRA Executive Vice President and Chief of Enforcement. “They also must adopt adequate procedures for an AML compliance program, be vigilant in monitoring for suspicious transactions, and allocate adequate resources to their AML compliance efforts. Penson and Pinnacle failed to do so.”

A firm’s AML procedures must address a number of areas, including monitoring transactions to detect and determine whether to report suspicious activity where appropriate. For example, when potentially suspicious activity that warrants further investigation is identified, including higher-risk penny stock deposits and liquidations or suspicious activity involving customers from high-risk foreign jurisdictions, a firm must initiate a review of that activity promptly and complete its review within a reasonable period of time. FINRA has advised firms that in designing their AML programs, they should consider factors such as their size, location, business activities, the types of accounts they maintain and the types of transactions in which their customers engage. FINRA also has instructed clearing firms to consider conducting computerized surveillance of account activity to detect suspicious transaction.

### **Penson Financial Services**

FINRA found that from Oct. 1, 2003, through May 31, 2008, Penson failed to adequately establish and implement its AML compliance program. FINRA found that one or two individuals were responsible for reviewing certain AML exception reports for suspicious activity, reports that were sometimes thousands of pages in length. Because the firm failed to allocate sufficient resources to its AML compliance program, these exception reports were not consistently reviewed. FINRA also found that Penson failed to regularly review penny stock deposits and liquidations, which can present a higher risk for fraud and money laundering. The firm also permitted customers to disburse funds out of certain accounts with check writing features without adequate AML review until December 2007, even though firm employees had identified this as a compliance concern internally as early as January 2004 and the firm had identified the concern through two subsequent internal audits.

FINRA found that even after implementing enhancements to its AML program in December 2007— including a sophisticated automated system to help identify suspicious trading activity—Penson still failed to conduct timely investigations of activity identified by the automated system as potentially suspicious because of continued inadequate staffing. Specifically, FINRA found that the firm failed to promptly commence a review of approximately 129 instances in which suspicious activity had been flagged for review by the firm’s automated system.

FINRA also found that Penson’s AML training program and written AML procedures were deficient, and that the firm failed to adequately assess the money-laundering risks presented by certain of the firm’s correspondent clearing accounts for foreign financial institutions. Additionally, FINRA found that Penson failed to comply with FINRA reporting requirements for clearing firms, failed to keep accurate books and records regarding the ages and actual amounts of unsecured deficits in the accounts of its correspondent firms, and failed to provide the ages and/or the actual amounts of certain unsecured deficits to its correspondent firms.

### **Pinnacle Capital Markets**

Pinnacle operates as an online business providing primarily foreign customers direct access to the U.S. securities markets. Direct online access allows customers to electronically execute trades with virtually no intervention by the firm. Nearly all of the firm’s customers, including foreign financial institutions, reside in overseas jurisdictions known for a high degree of money-laundering risk, as classified by the U.S. Department of State. These foreign financial institutions opened sub-accounts for foreign customers who could then direct activity without fully disclosing their identity. From January 2006 to September 2009, Pinnacle failed to adopt risk-based procedures to verify the identity of sub-account holders, even though these customers lived overseas in high-risk jurisdictions and could freely execute trades for their own profit.

Pinnacle also failed to adopt effective procedures for detecting suspicious activity. Instead, the firm used a “manual” system, which involved a daily review of its trade blotter. This approach failed to uncover highly suspicious trading patterns, including abrupt and inexplicable changes in investment strategy, the rapid accumulation and liquidation of penny stocks for profit, and other indications of potential market manipulation. In one particularly egregious case, the firm failed to detect irregular trading patterns in customer accounts used as part of an international online “pump-and-dump” scheme involving a Latvian bank. That pump-and-dump scheme became the target of a March 2007 Securities and Exchange Commission enforcement action. The firm itself was not named as a defendant in that action.

In concluding these settlements, Pinnacle and Penson neither admitted nor denied the charges, but consented to the entry of FINRA’s findings.

## **FINRA Fines H&R Block Financial Advisors \$200,000 for Inadequate Supervision of Reverse Convertible Notes Sales, Suspends and Fines Broker for Unsuitable Sales to Retired Couple**

### **Regulator Issues Guidance for Firms and for Retail Investors Regarding Risks, Potential Rewards and Complexity of This Popular Structured Product**

The Financial Industry Regulatory Authority (FINRA) announced its first enforcement action involving the sales of reverse convertible notes (RCNs)—fining H&R Block Financial Advisors, Inc., (nka Ameriprise Advisor Services, Inc.) \$200,000 for failing to establish adequate supervisory systems and procedures for supervising sales of RCNs to retail customers. FINRA also fined and suspended H&R Block broker Andrew MacGill for making unsuitable sales of RCNs to a retired couple. The firm was ordered to pay \$75,000 in restitution to the couple for losses they incurred.

At the same time, FINRA released an Investor Alert, *Reverse Convertibles - Complex Investment Vehicles*, to educate retail investors about how these products work, what risks they involve and what factors to consider before investing in an RCN. FINRA also issued *Regulatory Notice 10-09*, reminding firms of their sales practice obligations when recommending or selling RCNs to retail investors.

“Reverse convertible notes are complex investments which, like many structured products, often entail significant risk of loss,” said FINRA Chairman and CEO Richard Ketchum. “They are among the most popular structured products with retail investors, primarily because of the high yields they offer. But they also involve terms, features and risks that can be difficult for the retail investors who are buying them and the brokers who are selling them to evaluate.

“Firms selling reverse convertibles or similar structured products must ensure that their brokers understand the risks and costs associated with these products and perform adequate suitability analyses before recommending them to any customer. Firms must also have procedures in place to monitor customer accounts for potentially unsuitable concentration levels of these products,” Ketchum said. “For their part, investors should be prepared to ask their brokers the right kinds of questions about the risks, features and fees to determine whether reverse convertibles are right for them—and if they are, how much of their portfolio should be invested in RCNs. For the typical retail investor, for instance, it would be unwise to put anything more than a small portion of life savings into riskier structured products such as RCNs.”

An RCN is a structured product that typically consists of a high-yield, short-term note of an issuer and effectively a put option that is linked to the performance of an unrelated, or “linked,” asset—usually a single common stock, but sometimes a basket of stocks, an index or some other asset. As a general rule, upon maturity of an RCN, the investor will receive either his full principal investment or a predetermined number of shares of the linked equity (which may be worth less than the principal investment), depending on the performance of the linked equity. Generally speaking, the higher the coupon rate, the higher the expected volatility of the linked equity and the greater the likelihood of

the investment resulting in payment of shares. Reverse convertibles not only come with the risks that fixed income products ordinarily carry, such as issuer default and inflation risk, but with additional risks of the underlying asset, which can depreciate or even become worthless. The initial investment for most RCNs is \$1,000 per unit and most RCNs have maturity dates ranging from three months to one year.

In the enforcement matter announced today, FINRA found that during the period from January 2004 through December 2007, H&R Block engaged in sales of RCNs without having a system or procedures in place to effectively monitor customer accounts for potential over-concentrations in RCNs. As a result, the firm failed to detect and respond to indications of potential over-concentration in RCNs in numerous customer accounts.

FINRA found that H&R Block utilized an automated surveillance system to facilitate its suitability review of securities transactions and to monitor customer accounts for potentially unsuitable positions and activity. The system would flag for review any transaction or account meeting certain parameters established by the firm relating to, for example, account turnover and concentration levels in a particular security or class of security. The firm's system, however, was not configured or designed to monitor RCN transactions or RCN positions in customer accounts and the firm did not establish an effective alternative means to do so. As a result, H&R Block failed to detect and respond to indications of potentially unsuitable RCN concentration levels in numerous customer accounts. Additionally, the firm failed to provide sufficient guidance to its supervising managers on how to assess suitability in connection with their brokers' recommendation of RCNs.

FINRA found that the retired couple receiving restitution had, on MacGill's recommendation, invested nearly 40 percent of their total liquid net worth in nine RCNs. This exposed the customers to a risk of loss that was inconsistent with their investment objectives and risk tolerance and which ultimately resulted in substantial loss. FINRA suspended MacGill from associating with any FINRA regulated firm in any capacity for a period of 15 days, fined him \$10,000, and ordered him to disgorge \$2,023 in commissions that he earned from his sales of RCNs to the couple.

In concluding this settlement, H&R Block and MacGill neither admitted nor denied the charges, but consented to the entry of FINRA's findings.

MacGill's suspension is in effect from April 5, 2010, through April 23, 2010.